IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 21500 of 1994

Between:

1. Ghanapuram Venkataiah S/o.Sailu, H.No.7/22-2-1-A Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
2. Navaratna Mohanarao S/o.Kasiram, H.No.7-1-151/14 Sainagar Colony Balasamudram, Hanumakonda, Warangal District.
3. Ghanapuram Yakamma W/o.Dundaiah, H.No.7-1-36 Sainagar Colony Balasamudram, Hanumakonda, Warangal District.
4. Manda Sailu S/o.Sailu, H.No.7-1-36/1 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
5. Md.Rafee S/o.Abdul Karim, H.No.7-1-37/A/1 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
6. Md.Mahaboob Ali S/o.Karim, H.No.7-1-36/B Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
7. Md.Abdul Karim S/o.Karim, H.No.7-1-36/1B Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
8. Bandari Lingamma W/o.Komaraiah, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
9. E.Yakaiah S/o.Komaraiah, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
10. Kasturi Uppulaiah S/o.Venkataiah, H.No.7-1-47/9 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
11. Md.Yakub S/o.Bashamiah, H.No.7-1-37/B Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
12. Md.Dastagiri S/o.Khajamiah, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
13. Vandepalli Yakaiah S/o.Polaiah, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
14. Yakubi W/o.Hussain, H.No.7-1-36/A Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
15. Kasturi Rajamallu S/o.Komaraiah, H.No.7-1-47/1/9 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
16. Lalbi W/o.Dastagiri, H.No.7-1-36/B Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
17. Ahmedbi W/o.Shaik Chebu, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
18. N.Gowramma W/o.Kattaiah, H.No.7-1-37 Sainagar Colony, Balasamudram, Hanumakonda, Warangal District.
19. Syed Mohammed S/o.Ahmed, H.No.7-1-37 Sainagar Colony,

Balasamudram, Hanumakonda, Warangal District.
20. S.Prabhavati W/o.Komaraiah, H.No.7-1-37 Sainagar Colony,
Balasamudram, Hanumakonda, Warangal District.
21. V.Sarabhaiah S/o.Chambaiah, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
22. Gade Yellaiah S/o.Veeraiah, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
23. B.Uppalaiah S/o.Kanakaiah, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
24. K.Mallaiah S/o.Ramaiah, H.No.7-1-31 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
25. Sk.Abeda S/o.Ghouse, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
26. Karu Anasurya W/o.Ramulu, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
27. Sk. Ankushbi W/o.khaja, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
28. Sk. Babu S/o.Karim, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
29. Komaraiah S/o.Venkataiah, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
30. M.Venkataiah, H.No.7-1-42/A Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.
31. G.Durgaiah S/o.Sarvaiah, H.No.7-1-37 Sainagar Colony
Balasamudram, Hanumakonda, Warangal District.

..... PETITIONERS

AND

1. Commissioner, Warangal Municipal Corporation Warangal
2. District Collector, Warangal
3. Mandal Revenue Officer, Hanumakonda Warangal Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue, a writ, order or direction particularly a writ in the nature of Mandamus, declaring the action of the respondents in demolishing and trying to evict the petitioners from their respective houses as mentioned in the cause title against each petitioner, constructed in Sy. No.1066 in Sainagar Colony, Balasamudram, Hanumakonda, Warangal District as totally illegal, without jurisdiction, violative of Articles 14 and 21 and 300-A of the Constitution of India and also in violation of G.O.Ms.No.331, of 1991 Revenue (Assignment-II) Dept., dt.21/4/1991 and consequently direct the respondents not to interfere by way of demolition or eviction with the possession and enjoyment of their above said respective houses/huts by allowing suitable damages for the damage already done to the structures belonging to the petitioners.

Counsel for the Petitioners: MR. S. LAKSHMA REDDY

Counsel for the Respondent No.1: MR. K. VENUGOPAL REDDY

Counsel for the Respondent Nos.2 & 3: G.P FOR REVENUE

The Court made the following:

-

-

-

-

ORDER:

-

Heard both sides.

2. The petitioners herein, who are in occupation of the respective portions and the houses constructed thereon, filed this writ petition, *inter alia,* challenging the action of the respondents herein in seeking to evict them from their respective houses.

3. The case of the petitioners is that in fact they were assigned of the land, wherein they have constructed their houses and, therefore, their possession was perfected. Further, disputing the very identity in regard to Survey Number, the respondents are falsely claiming that the petitioners have occupied in S.No.1066, to which there is no assignment. Hence, the petitioners have sought not to demolish the constructions made by them in their respective portions and not to dispossess them in their respective portions.

4. It is submitted on behalf of the respondents herein that the petitioners were in fact assigned the land in S.No.898 but not S.No.1066. However, inspite of the same, they occupied the other, which is totally illegal.

5. Considering the submissions made and also on perusal of the material on record, there is a clear dispute as to the identity of the land in regard to Survey Number, in respect of which, the petitioners claiming to be in possession and wherein they have constructed their houses. Further, in view of their admitted possession, they cannot be simply evicted without properly conducting an enquiry, after giving notice and also after establishing the very identity, in which their occupation is falls.

6. In the circumstances, the writ petition is disposed of directing the respondents to

conduct enquiry and pass orders in accordance with law, after giving notice and opportunity to the petitioners and it shall be open for the respondents to make a survey of the land for the purpose of establishing the very identity before proceeding with any action. No costs.

_____

B. PRAKASH RAO, J

Dt.09-09-2004

Glv/skmr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The Commissioner, Warangal Municipal Corporation, Warangal.
2. The District Collector, Warangal.
3. The Mandal Revenue Officer, Hanumakonda Warangal District.

4. Two CCs to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (O.U.T)

5. Two CD copies.